

# 立法會

## *Legislative Council*

LC Paper No. CB(2) 84/10-11

Ref: CB2/A/14

### **Paper for the House Committee meeting on 22 October 2010**

#### **Continuation of work of subcommittees on policy issues**

#### **Purpose**

This paper invites Members to note the progress of work of seven subcommittees on policy issues appointed under the House Committee and Panels and to endorse their proposed continuation of work.

#### **Background**

2. Under rule 26(c) of the House Rules ("HR"), a subcommittee on policy issues should complete work within 12 months of its commencement and report to the House Committee or relevant Panel(s) as appropriate. Should such a subcommittee consider it necessary to work beyond 12 months, it should, after obtaining the endorsement of the relevant Panel(s), report to the House Committee and give justifications for an extension of the period.

#### **Proposed continuation of work**

3. The seven subcommittees seeking the endorsement of the House Committee for continuation of their work are -

- (a) the Subcommittee on Matters Relating to Railways under the Panel on Transport;
- (b) the Subcommittee on Improving Air Quality under the Panel on Environmental Affairs;
- (c) the Subcommittee on Harbourfront Planning under the Panel on Development;
- (d) the Joint Subcommittee to Monitor the Implementation of the West Kowloon Cultural District Project under the Panel on Home Affairs and the Panel on Development;

- (e) the Subcommittee to Study Issues Relating to Mainland-HKSAR Families under the House Committee;
- (f) the Joint Subcommittee on Amendments to Land Titles Ordinance under the Panel on Development and the Panel on Administration of Justice and Legal Services; and
- (g) the Subcommittee on Combating Fly-tipping under the Panel on Environmental Affairs.

4. The six subcommittees listed in (a) to (f) above were appointed in the 2008-2009 session and had been given endorsement by the House Committee in November 2009 or January 2010 to continue their work in the 2009-2010 session, while the Subcommittee on Combating Fly-tipping had been given endorsement by the House Committee in November 2009 to reactivate its work for 12 months. The seven subcommittees have recently reviewed their work progress and decided that they should continue their work. The progress of work of these subcommittees and their proposed timeframe for continuation of work are detailed in **Appendices I to VII**.

#### **Bills Committees and subcommittees in operation in the next three months and staff implications**

5. Apart from the seven subcommittees mentioned above, four other subcommittees on policy issues, including two under the House Committee and two under Panels, are currently in operation. Of these, one subcommittee (i.e. the Subcommittee to Examine the Implementation in Hong Kong of Resolutions of the United Nations Security Council in relation to Sanctions) had obtained approval to continue its work in the remaining sessions of the current term; one subcommittee (i.e. the Subcommittee to Study Issues Arising from Lehman Brothers-related Minibonds and Structured Financial Products) is seeking the endorsement of the House Committee to continue its work in the remaining sessions of the current term; and the other two subcommittees (i.e. the Subcommittee on Residential and Community Care Services for Persons with Disabilities and the Elderly and the Subcommittee on Building Safety and Related Issues) have been working for less than 12 months.

6. HR 26(a) specifies that the maximum number of subcommittees on policy issues that may be in operation at any one time is eight. HR 26(b) provides that where the number of Bills Committee in operation is less than 16, the House Committee may allow more than eight such subcommittees in operation or continue to operate after having considered the following:

- (a) the number of vacant slots for Bills Committees;
- (b) the number of bills likely to be introduced to the Council in the next three months;

- (c) the number of subcommittees already or likely to be appointed for studying subsidiary legislation or other instruments; and
- (d) the availability of resources in the Secretariat.

7. Members may wish to note that 12 Bills Committees and four subcommittees on subsidiary legislation are currently in operation. It is expected that another eight Bills Committees and one subcommittee on subsidiary legislation will likely be appointed in the coming three months, making a total of 55 committees operating at the same time. Notwithstanding the fact that the current staffing complement of the Secretariat is only to cater for the servicing of a maximum number of 48 subcommittees, the Secretariat would try to absorb the servicing of these 55 committees (i.e. including the seven subcommittees on policy issues seeking endorsement for continuation of work) through redeployment of resources. A position report on the existing and anticipated number of Bills Committees and subcommittees is in **Appendix VIII**.

#### **Advice sought**

8. In accordance with HR 26(c), Members are invited to note the latest progress of work of the seven subcommittees in paragraph 3 above and endorse their proposals for continuation of work.

Council Business Division 2  
Legislative Council Secretariat  
21 October 2010

**立法會**  
**Legislative Council**

LC Paper No. CB(1)164/10-11

Ref : CB1/PS/1/08

**Paper for the House Committee meeting on 22 October 2010**

**Continuation of work of the Subcommittee on Matters Relating to Railways**

**Purpose**

This paper reports on the progress of work of the Subcommittee on Matters Relating to Railways (the Subcommittee) formed under the Panel on Transport (the Panel), and the need for the Subcommittee to continue its work in the remaining two sessions of the current term (2008-2012).

**Background**

2. A Subcommittee on Matters Relating to the Implementation of Railway Development Projects (later renamed as Subcommittee on Matters Relating to Railways) was formed under the Panel on 15 December 2000 to monitor the development and implementation of railway projects in Hong Kong as well as the operation of existing railways. The Subcommittee continued its work in the last two terms. In the current term, the Subcommittee was again set up in October 2008 to oversee matters relating to railways. The terms of reference and membership list of the Subcommittee are given in **Annexes I and II** respectively. The latest progress report of the Subcommittee on its work was submitted to the Panel in July 2010 (LC Paper No. CB(1)2381/09-10).

**Progress of work of the Subcommittee in following up railway projects**

3. Based on the first Railway Development Strategy formulated in 1994 and the new Railway Development Strategy 2000 endorsed by the Chief Executive-in-Council in May 2000, the following component schemes have been identified to meet the railway network expansion needs up to 2016 -

<u>Railway projects</u> (completed)		<u>Commissioning date</u>
(a) MTR Tseung Kwan O Line (TKL)	-	August 2002

- (b) West Rail - December 2003
- (c) KCR Extension from Hung Hom to Tsim Sha Tsui (TST Extension) - October 2004
- (d) Ma On Shan to Tai Wai Rail Link (MOS Rail) - December 2004
- (e) Disneyland Resort Line (DRL) - August 2005
- (f) Sheung Shui to Lok Ma Chau Spur Line - August 2007
- (g) MTR Tseung Kwan O Extension (Phase II) - July 2009
- (h) Kowloon Southern Link (KSL) - August 2009

B. Railway projects (under construction)

- (a) West Island Line (WIL) - 2014
- (b) Hong Kong Section of the Guangzhou-Shenzhen-Hong Kong Express Rail Link (XRL) - 2015

C. Railway projects (under planning or review)

- (a) South Island Line (East) (SIL(E)) - construction is expected to commence in 2011 for commissioning in 2015
- (b) Shatin to Central Link (SCL) - railway scheme is planned to be gazetted in early 2011 for construction as soon as possible
- (c) Northern Link (NOL) - implementation programme will be formulated in the light of the future development of the New Development Areas and the need for cross-border traffic in the New Territories North

- (d) North Hong Kong Island Line - under review

D. Railway project (not pursued further)

- (a) Port Rail Line (PRL) - in view of the continuous drop in the throughput of cross-boundary rail freight, the Administration has decided that PRL should not be pursued further

4. The Subcommittee formed in the last two terms had actively followed up the planning, financing and implementation of various railway projects in Hong Kong, including the TKL, West Rail, Sheung Shui to Lok Ma Chau Spur Line, TST Extension, MOS Rail, KSL, SCL, DRL, NOL, the Hong Kong Section of XRL, WIL, and SIL(E). For these projects, the Subcommittee had reviewed the station design, alignment options, pedestrian connectivity of railway stations with neighbouring area and relevant funding proposals. The Subcommittee was also concerned about the operation and performance of railway systems, and it had reviewed Light Rail service, railway incidents, preventive and response measures for emergency incidents, and progress of retrofitting platform screen doors at MTR stations.

5. In the 2009-2010 session, the Subcommittee continued to follow up the planning, financing and implementation of new railway projects including WIL, the Hong Kong Section of XRL, SIL(E), the Kwun Tong Line Extension, and station railway design. As regards railway operation, the Subcommittee has discussed the TKL and East Rail Line service disruption incidents, and the outcome of a review of the MTR By-laws and North-west Railway By-law.

6. According to its terms of reference, the Subcommittee will monitor the planning, financing and implementation progress of railway projects and address problems of railway operation.

**Need for continuation of work in the remaining sessions of the current term (2008-2012)**

7. Given that a number of new railway projects are still in the pipeline (paragraph 3) and the Subcommittee considers it necessary to monitor the performance of the new railway lines, it is not envisaged that the Subcommittee can complete its work within a short period. The Panel discussed and agreed at its meeting on 14 October 2010 that the Subcommittee should continue its work according to the existing terms of reference in the remaining sessions of the

current term (2008-2012).

**Advice sought**

8. Pursuant to Rule 26(c) of the House Rules, members are invited to note the progress of work of the Subcommittee and endorse the proposal for the Subcommittee to continue its work according to the existing terms of reference in the remaining sessions of the current term (2008-2012).

Council Business Division 1  
Legislative Council Secretariat  
21 October 2010

**Panel on Transport**

**Subcommittee on matters relating to railways**

**Terms of Reference**

To follow up various issues relating to the planning and implementation of new railway projects, and the operation of existing railways as follows:

Planning and implementation of new railway projects

- (a) planning and financing of new railway projects;
- (b) environmental impact assessment of new railway projects;
- (c) resumption of land arising from the implementation of new railway projects under the Railways Ordinance (Cap. 519);
- (d) progress update on the implementation of new railway projects;
- (e) provision of supporting public infrastructure for new railway projects; and
- (f) co-ordination of public transport services arising from the commissioning of new railway lines.

Railway operation

- (a) performance of existing railway lines including train service performance and safety management;
- (b) maintenance programme; and
- (c) train service disruptions and breakdowns, and arrangements for handling emergency situations.

Matters relating to corporate governance of the post-merger corporation and fares should be dealt with by the Panel on Transport.



**Legislative Council  
Panel on Transport**

**Subcommittee on Matters Relating to Railways**

**Membership list for 2010-2011 session**

**Members**

Ir Dr Hon Raymond HO Chung-tai, SBS, S.B.St.J., JP  
Hon LAU Kong-wah, JP  
Hon Miriam LAU Kin-yee, GBS, JP  
Hon Andrew CHENG Kar-foo  
Hon Abraham SHEK Lai-him, SBS, JP  
Hon LI Fung-ying, SBS, JP  
Hon WONG Kwok-hing, MH  
Hon LEE Wing-tat  
Hon Jeffrey LAM Kin-fung, SBS, JP  
Hon CHEUNG Hok-ming, GBS, JP  
Hon Ronny TONG Ka-wah, SC  
Hon KAM Nai-wai, MH  
Hon WONG Sing-chi  
Hon IP Wai-ming, MH  
Hon Mrs Regina IP LAU Suk-yee, GBS, JP  
Hon LEUNG Kwok-hung  
Hon Tanya CHAN  
Hon Albert CHAN Wai-yip

(Total: 18 members)

**Clerk**

Ms Joanne MAK

**Legal Adviser**

Mr Kelvin LEE

**Date**

21 October 2010

**立法會**  
*Legislative Council*

LC Paper No. CB(1) 127/10-11

Ref : CB1/PS/3/08

**Paper for the House Committee meeting on 22 October 2010**

**Continuation of work of the Subcommittee on Improving Air Quality**

**Purpose**

This paper reports on the progress of work of the Subcommittee on Improving Air Quality (the Subcommittee) during the 2009-2010 session, and the need for continuation of its work in the 2010-2011 session.

**Background**

2. The ambient air pollution problem has all along been a public concern. It has a significant bearing on public health and the quality of life, and also on the long-term development of Hong Kong. Multinational enterprises are reluctant to set up their regional headquarters in Hong Kong due to the deteriorating air quality. The problem is compounded by a combination of factors, including high population density, high concentration of vehicles, as well as air pollution in the Pearl River Delta (PRD) Region. On the regional front, the Hong Kong Special Administrative Region Government (HKSARG) and the Guangdong Provincial Government (GPG) have jointly formulated the PRD Regional Air Quality Management Plan (Management Plan), which aims at achieving specific emission reduction targets by 2010. On the local front, the Administration is reviewing the Air Quality Objectives (AQOs) taking into account the World Health Organization (WHO)'s Air Quality Guidelines (AQGs). Other measures, including imposing emission caps on power plants, providing financial incentives to encourage early replacement of pre-Euro and Euro I diesel commercial vehicles, banning idling vehicles with running engines, promoting energy conservation and saving, are being undertaken or contemplated.

3. To enable focused discussion on Government's efforts in addressing air pollution, the Panel on Environmental Affairs (the Panel) decided at its meeting on 27 October 2008 to set up a subcommittee to monitor and study policies as well as public concerns on improving air quality. The terms of reference and membership of the Subcommittee are given in **Annexes I and II** respectively. At the first meeting of the Panel in the 2009-2010 session on 15 October 2009, it was decided that the Subcommittee should continue its work in the current session.

## **Progress of work of the Subcommittee**

4. In the 2009-2010 legislative session, the Subcommittee has studied a number of issues, including progress of measures to achieve the emission reduction targets under the Pearl River Delta Regional Air Quality Management Plan (the Management Plan), measures in addressing serious air pollution incidents, and progress of review of Hong Kong's Air Quality Objectives.

### Progress of measures to achieve the emission reduction targets under the Pearl River Delta Regional Air Quality Management Plan

5. To improve regional air quality, HKSARG reached a consensus with GPG in April 2002 to reduce, on a best endeavour basis, the emission levels of sulphur dioxide (SO<sub>2</sub>), nitrogen oxides (NO<sub>x</sub>), respirable suspended particulates (RSP) and volatile organic compounds (VOC) by 40%, 20%, 55% and 55% respectively in PRD Region by 2010, using 1997 as the base year. In December 2003, the two governments jointly drew up the Management Plan with a view to meeting the emission reduction targets. The Pearl River Delta Air Quality Management and Monitoring Special Panel was also set up under the Hong Kong/Guangdong Joint Working Group on Sustainable Development and Environmental Protection to follow up the tasks under the Management Plan.

6. The Subcommittee has noted that while the emission levels of NO<sub>x</sub>, RSP and VOC in Hong Kong have been reduced to an extent close to or even exceeding the 2010 emission reduction targets, the emission level of sulphur dioxide (SO<sub>2</sub>) is way behind schedule. Subcommittee members have questioned how the 2010 emission reduction targets can be achieved. They have also enquired about the consequences in the event of failure to achieve the reduction targets.

### Measures in addressing serious air pollution incidents

7. Dust plume associated with a distant sandstorm originated from Mongolia and northern China had caused the Air Pollution Index (API) in Hong Kong to reach the "Severe" band (i.e. API 201 to 500) during the period from 21 to 23 March 2010. The incident has aroused public concern on the need to enhance the present warning system to give more advance notice on the occurrence of serious air pollution incidents. There are also calls for better cooperation with the Mainland on the advance notification of sandstorms and other adverse weather conditions which would have impact on the air quality of Hong Kong. Noting that the current API system comprises an API ranging from 0 to 500, the Subcommittee has enquired about the need for additional indicators to reflect air pollution levels beyond API 500. Given the health risk associated with air pollution, members have opined that legislation and guidelines should be put in place to enhance protection of employees' health and safety when working outdoors in inclement weather. Consideration should be given to introducing a warning system similar to the typhoon/rainstorm signal system to suspend outdoor work on days with extreme API.

## Progress of review of Hong Kong's Air Quality Objectives

8. In 2007, the Administration commissioned a consultancy study to recommend a new set of AQOs for Hong Kong with reference to WHO AQGs, and an air quality management strategy to achieve the new AQOs. The Review has recommended a new set of AQOs and a host of air quality improvement measures required for attaining the proposed new AQOs. In July 2009, the Administration launched a four-month public consultation on the recommendations. The Subcommittee has noted that the proposed air quality improvement measures encompass a wide range of areas, covering power plants, motor vehicles, marine vessels, traffic and transport management, as well as energy efficiency improvement. The nature and degree of complexity of these measures vary. Some require huge capital investment and long planning lead time (such as increasing the share of natural gas for electricity generation), some call for raising public awareness and behavioural changes (such as making smarter choices in using more energy efficient appliances), some envisage a new approach to infrastructural development (such as district cooling system), whereas others may require new legislation (such as mandatory implementation of Building Energy Codes). In addition, some of these measures would entail increases in expenses for individuals or businesses.

### *Power generation sector*

9. The Subcommittee has noted that among the recommended air quality improvement measures, the proposal of raising the share of natural gas for local electricity generation to 50% of the overall local fuel mix has the largest emission reduction potential. Given that Hong Kong and the Mainland have signed the Memorandum of Understanding on Energy Co-operation to make available extra supply of natural gas to Hong Kong, members have enquired if the supply of natural gas from the Mainland for local generation has been fully utilized for power generation and if not, the reason behind the under-utilization. They have also requested the Administration to advise the best practicable means available to enable power companies to increase the use of natural gas for electricity generation.

### *Transport sector*

10. Motor vehicles are the second largest source of air pollution, and the main source of roadside air pollution in Hong Kong. Diesel commercial vehicles are the major air pollution emitters, accounting for about 88% and 76% of the total vehicular emission of RSP and NO<sub>x</sub> respectively. Phasing out aged commercial vehicles thus holds the key to cleaner roadside air quality. In April 2007, the Administration introduced a \$3.2 billion three-year one-off grant scheme to encourage early replacement of pre-Euro and Euro I diesel commercial vehicles. Up to end February 2010, about 24% of eligible commercial vehicles have participated in the grant scheme.

11. In view of the low take-up rate of the grant scheme, relevant stakeholders, including green groups and the transport trades, have been invited to attend Subcommittee meeting in March 2010 to express views on measures to encourage participation in the scheme with a view to optimizing the use of the one-off grant.

The transport trades have requested for extension of the application period by one to two years to allow eligible owners to make use of the grant. Some have suggested making it a standing scheme to subsidize vehicle owners to replace their old vehicles. Others have requested to increase the grant levels and to abolish the requirement for owners to acquire new vehicles in order to be eligible for the grant. The Subcommittee has noted that the Administration does not consider the former two suggestions appropriate as it would go against the objective of encouraging early replacement of more polluting vehicles to bring early relief to roadside air pollution. Notwithstanding, a special arrangement has been worked out to help those eligible vehicle owners who have ordered new replacement vehicles which cannot arrive on time or cannot complete preparations (such as vehicle body-building works) before the expiry of the application deadline on 31 March 2010 to retain their eligibility for the grant.

12. To further reduce vehicular emissions, the Administration has proposed to introduce another \$540 million one-off grant scheme, with reference to the scheme for pre-Euro and Euro I diesel commercial vehicles, to encourage early replacement of Euro II diesel commercial vehicles. It has also proposed to revisit the need for suitable disincentive measures, such as increasing the vehicle licence fees for aged commercial vehicles, given that relying solely on incentive schemes has proven to be not as effective as expected to discourage the continued ownership and usage of older commercial vehicles. While welcoming additional measures to reduce vehicular emissions, members have stressed the need for the Administration to conduct a survey to ascertain the adequacy of the grant level to ensure the success of the proposed one-off grant scheme for replacement of Euro II diesel commercial vehicles. Consideration should be given to testing the performance of Euro V vehicles to ease the concerns of the transport trade and encourage participation in the scheme. Subcommittee members have also pointed out that the proposed increase in licence fees would indeed affect the operation of the transport trades, and thus more consultation with the affected trades should be held.

13. As franchised buses are a major and visible source of roadside air pollution, replacing the more polluting franchised buses will go a long way towards improving the roadside air quality. The Subcommittee has urged the Administration to re-consider subsidizing the early replacement of more polluting franchised bus fleet so that the cost incurred will not be transferred to the public through increase in bus fare. Meanwhile, the Subcommittee is pleased to note that franchised bus companies have retrofitted their pre-Euro and Euro I buses with diesel oxidation catalysts that can reduce the particulate emissions by about 30%. They are also in the process of retrofitting their Euro II and Euro III buses with diesel particulate filters, where technically feasible, which can reduce the emissions of particulates, hydrocarbon and carbon monoxide by about 80%. The retrofitting work is expected to be completed within 2010. To reduce NO<sub>x</sub> emissions from the franchised bus fleet, the Subcommittee has noted that the Administration is looking into the feasibility of retrofitting Euro II and Euro III buses with selective catalytic reduction (SCR) devices. A task force comprising representatives from the major franchised bus companies, overseas and local experts as well as relevant Government departments will be set up to examine the related technical issues and oversee the trial. Subject to the

satisfactory completion of the trial, the Administration will map out the way forward for implementing the SCR retrofit in conjunction with the bus companies. To facilitate better understanding of the trial, the Subcommittee has requested the Administration to provide a paper setting out the coverage of the trial, membership of the task force, expected time for completion of the trial, and whether an independent third party will be engaged to oversee the trial.

14. Apart from vehicles, the Subcommittee has noted that vessels are also a major source of air pollution. Among local emission sources, vessels ran second in respect of SO<sub>2</sub>, third in NO<sub>x</sub>, and fifth in RSP. Of local vessels, domestic ferries account for 44% of the SO<sub>2</sub>, 54% of the NO<sub>x</sub>, and 66% of the RSP emitted from local vessels. Moreover, their emissions are more visible to the people living or working near to the shore of the harbour area. Hence, there is an imminent need for measures to reduce emissions from ferries to improve the air quality in Hong Kong. To ascertain the technical feasibility of powering domestic ferries by ultra low sulphur diesel (ULSD), which has a sulphur content 100 times less than that of marine light diesel currently used by local vessels, the Administration has launched a trial which is expected to be completed within 2010. The preliminary feedback from the vessels joining the trial indicates that ULSD is likely feasible for powering local ferries. However, there will be a price premium between ULSD and marine light diesel, and logistical problem with supply of ULSD for maritime use in outlying areas of the territory. Some members have pointed out that the Administration should consider providing direct subsidy to ferry companies if it is the policy intent to mandate the use of ULSD by local vessels.

#### *Non-road mobile sources*

15. Non-road mobile sources include mobile machines, transportable industrial equipment and non-road vehicles powered by an internal combustion engine used primarily off the roads. At present, these non-road mobile machineries (NRMMs) are neither required to comply with statutory emission standards as a pre-requisite for entering the local market nor subject to any legislative air pollutant emission control, except that they must not cause air nuisance and the diesel-driven ones must use diesel with a sulphur content not higher than 0.005%. As NRMMs contribute to about 7% and 11% of the local emissions of RSP and NO<sub>x</sub> respectively, the Administration has proposed to put these emission sources under control. Under the proposed control scheme, importers must obtain approval regarding emission compliance from Environmental Protection Department before importing NRMMs. Each piece of NRMM (except that for re-export) shall bear a durable and visible engine emission information label for identification. Failure to comply with the requirements will be liable to a fine ranging from \$50,000 to \$200,000 and imprisonment from three to six months. Subcommittee members have enquired about the environmental benefits to be achieved through the proposed control of emissions from NRMMs, and the basis upon which the penalty regime under the control scheme is arrived at. They have also stressed the need for consultation with the affected importers and the logistical trades.

*Promoting energy efficiency*

16. The Subcommittee has noted that the Transport Department is replacing conventional traffic signals with light-emitting diode (LED) in three stages for Hong Kong, Kowloon and New Territories regions respectively. The whole replacement programme is expected to be completed in the third quarter of 2010. Based on the results of preliminary technical assessments on the trial of LED street lights along designated streets and LED light tubes on footbridges, the Highways Department has commenced a larger scale trial scheme to replace more than 200 fluorescent light tubes by LED light tubes at six footbridges and two subways. About 100 LED street lights will also be installed in various districts to further test the reliability and efficacy of LED light fittings. A member has opined that Hong Kong has lagged behind the Mainland in the development and use of renewable energy. Unlike Hong Kong where LED street lights are still on a trial stage, all the street lights in Su Zhou are powered either by solar energy or wind energy. Besides, the responsible Mainland officials have the vision and commitment in taking forward environmental initiatives. In this regard, members have requested the Administration to map out a future street lighting system based on the use of solar energy, wind energy or LED. Consideration should also be given to imposing a mandatory requirement on the use of photovoltaic panels for new buildings to promote the use of renewable energy.

**Need for continuation of work of the Subcommittee in the 2010-2011 session**

17 In view of the many measures and initiatives being contemplated by the Administration in improving air quality, the Subcommittee has provided a platform for more focused discussion of these measures and initiatives. Hence, the Panel decided at its meeting on 14 October 2010 that the Subcommittee should continue its work in the 2010-2011 session

**Advice sought**

18. Pursuant to Rule 26(c) of the House Rules, members are invited to note the progress of work of the Subcommittee, and endorse the proposal for the Subcommittee to continue its work in the 2010-2011 session.

**Panel on Environmental Affairs**  
**Subcommittee on Improving Air Quality**

**Terms of Reference**

To monitor and study policies as well as public concerns on improving air quality.



**Panel on Environmental Affairs**

**Subcommittee on Improving Air Quality**

**Membership list**

<b>Chairman</b>	Hon Audrey EU Yuet-mee, SC, JP
<b>Members</b>	Hon Miriam LAU Kin-ye, GBS, JP Hon LEE Wing-tat Hon Jeffrey LAM Kin-fung, SBS, JP Hon KAM Nai-wai, MH Hon Cyd HO Sau-lan Hon CHAN Hak-kan Hon CHAN Kin-por, JP Hon IP Wai-ming, MH Hon Tanya CHAN  (Total : 10 Members)
<b>Clerk</b>	Miss Becky YU
<b>Legal Adviser</b>	Miss Kitty CHENG
<b>Date</b>	21 October 2010

立法會  
*Legislative Council*

LC Paper No. CB(1)146/10-11

Ref : CB1/PS/2/08

**Paper for the House Committee meeting on 22 October 2010**

**Continuation of work of the Subcommittee on Harbourfront Planning  
under the Panel on Development**

**Purpose**

This paper invites members to note the latest progress of work of the Subcommittee on Harbourfront Planning (the Subcommittee) and the need for the Subcommittee to continue its work in the 2010-2011 legislative session.

**Background**

2. The Subcommittee was set up under the Panel on Development in November 2008 to monitor and study the planning, land use and related issues in respect of the harbourfront areas on both sides of the Victoria Harbour. The membership list of the Subcommittee is in the **Annex**. The major areas of the Subcommittee's study, as agreed by the Panel, include the following --

- (a) short-term, medium-term and long-term initiatives to enhance the environment and accessibility of harbourfront areas for public enjoyment;
- (b) development of continuous promenades along the harbourfront;
- (c) planning control in respect of development projects at harbourfront sites; and
- (d) institutional arrangements for the planning and management of harbourfront areas.

### **Work of the Subcommittee**

3. Under the chairmanship of Prof Hon Patrick LAU Sau-shing, the Subcommittee has held eight meetings, and conducted three site visits to the harbour and various locations along the harbourfront. The Subcommittee has studied the following major issues --

- (a) major strategies adopted by the Administration in formulating and implementing harbourfront enhancement initiatives;
- (b) planned harbourfront enhancement measures on government land and private land in the short term, medium term and long term;
- (c) connectivity of the harbourfront areas for pedestrian access both on Hong Kong Island and on the Kowloon side;
- (d) major harbourfront issues discussed by District Councils;
- (e) the Administration's harbourfront enhancement initiatives and existing constraints;
- (f) the operation, design features and management mode of selected facilities, viz. Avenue of Stars, Ma Wan Park and Tsing Yi Waterfront Promenade;
- (g) public-private-partnership approach in harbourfront development;
- (h) Urban Design Study for the New Central Harbourfront;
- (i) the Harbour-front Enhancement Committee's achievements and final recommendations on harbourfront management;
- (j) overseas experience in waterfront developments collated from visits made by the Harbour-front Enhancement Committee and the Secretary for Development;
- (k) the latest work on harbourfront enhancement carried out by the Harbour Unit of Development Bureau; and
- (l) the establishment of the Harbourfront Commission.

4. In the course of the Subcommittee's study, the Subcommittee considered it useful to conduct a duty visit to selected cities with successful experience in waterfront planning and management, viz. Vancouver, New York, Boston and Baltimore. The Subcommittee decided on 26 June 2009 to conduct a duty visit to these cities and the proposed visit was endorsed by the House Committee on

10 July 2009. In planning for the visit, the Subcommittee noted that the Administration was conducting studies on the waterfront management and operation models in certain overseas places. The Subcommittee considered it useful to make reference to the findings of those studies and decided to conduct the duty visit later. On 2 July 2010, the Administration briefed the Subcommittee on, among others, overseas experience in waterfront developments. The Subcommittee considered the information and decided to undertake the duty visit in late September 2010, which was approved by the House Committee on 9 July 2010.

5. In late August 2010, having regard to the latest circumstances including some interested members' unavailability for the duty visit, and after consultation with the other delegation members, Prof Hon Patrick LAU Sau-shing, Chairman of the Subcommittee and leader of the delegation, advised that the duty visit should not be proceeded with for the time being. Subcommittee members would be consulted on the way forward for the Subcommittee, including whether the Subcommittee would continue its work in the 2010-2011 legislative session and whether and how the duty visit should be pursued.

#### **Need for continuation of work in the 2010-2011 session**

6. Against the above background, at the meeting held on 24 September 2010, the Subcommittee decided that it should continue its work and pursue the duty visit in the 2010-2011 session. The Subcommittee may also study the following issues --

- (a) development of continuous waterfront promenades on both sides of the harbour;
- (b) revitalization or adaptive re-use of idle or under-utilized Government facilities on harbourfront sites;
- (c) wider application of the public-private-partnership approach in harbourfront development and management;
- (d) harbourfront initiatives under the consideration of the newly established Harbourfront Commission, such as enhancing accessibility to the Kai Tak waterfront and harbourfront developments in Kowloon, Tsuen Wan and Kwai Tsing;
- (e) review of the existing land use planning for a harbourfront site in Sham Shui Po;
- (f) waterfront development at West Kowloon Cultural District;

- (g) the role of the Development Opportunities Office in facilitating harbourfront development; and
- (h) the feasibility of establishing a harbourfront authority to oversee harbourfront planning, development and management in the long run.

It is expected that the Subcommittee will require a period of not less than nine months in order to continue its study and to pursue the duty visit.

7. The Panel on Development agreed on 14 October 2010 that the Subcommittee should continue its work in the 2010-2011 session.

### **Advice sought**

8. Pursuant to Rule 26(c) of the House Rules, members are invited to note the latest progress of work of the Subcommittee and endorse the proposal for the Subcommittee to continue its work in the 2010-2011 session.

Council Business Division 1  
Legislative Council Secretariat  
21 October 2010

**Panel on Development**

**Subcommittee on Harbourfront Planning**

**Membership list**

**Chairman** Prof Hon Patrick LAU Sau-shing, SBS, JP

**Members** Ir Dr Hon Raymond HO Chung-tai, SBS, S.B.St.J., JP  
Hon James TO Kun-sun  
Hon Mrs Sophie LEUNG LAU Yau-fun, GBS, JP  
Hon Timothy FOK Tsun-ting, GBS, JP  
Hon Abraham SHEK Lai-him, SBS, JP  
Hon LEE Wing-tat  
Hon CHEUNG Hok-ming, GBS, JP  
Hon KAM Nai-wai, MH  
Hon Cyd HO Sau-lan  
Hon Starry LEE Wai-king, JP  
Dr Hon Priscilla LEUNG Mei-fun  
Hon IP Kwok-him, GBS, JP  
Hon Paul TSE Wai-chun  
Hon Alan LEONG Kah-kit, SC  
Hon Tanya CHAN  
Hon Albert CHAN Wai-yip

(Total: 17 members)

**Clerk** Mr Stephen LAM

**Legal Adviser** Miss Winnie LO

**Date** 21 October 2010

立法會  
*Legislative Council*

LC Paper No. CB(2)71/10-11

Ref : CB2/PS/2/08

**Paper for the House Committee meeting on 22 October 2010**

**Continuation of work of the Joint Subcommittee to Monitor the Implementation of the West Kowloon Cultural District Project**

**Purpose**

This paper reports on the progress of work of the Joint Subcommittee to Monitor the Implementation of the West Kowloon Cultural District Project ("the Subcommittee") and the need for the Joint Subcommittee to continue its work in the 2010-2011 legislative session.

**Background**

2. The Joint Subcommittee was appointed by the Panel on Home Affairs and the Panel on Development in December 2008 to monitor issues relating to the implementation of the West Kowloon Cultural District ("WKCD") project, including the work of the West Kowloon Cultural District Authority ("WKCDA"), the project's interface with arts and cultural development, and other related matters, focusing particularly on the following areas -

- (a) preparation of the development plan for WKCD;
- (b) planning and construction of core arts and cultural facilities and other associated facilities;
- (c) the institutional and procedural arrangements of WKCDA, such as appointment of the Chief Executive Officer ("CEO") and other senior staff of the Authority, appointment of committees set up by the Authority, arrangements for enhancing the transparency of meetings of WKCDA and public access to information on its operations;
- (d) financial management and procurement procedures;
- (e) public engagement ("PE") arrangements; and

- (f) development of cultural software which has a direct bearing on the planning or financing of the arts and cultural facilities in WKCD.
3. The membership list of the Joint Subcommittee is in the **Annex**.

### **Progress of work of the Joint Subcommittee**

4. Under the chairmanship of Hon IP Kwok-him, the Joint Subcommittee held six meetings with the Administration and WKCDA during the 2008-2009 session to discuss issues relating to the masterplanning of WKCD, development of M+, establishment of the Consultation Panel, and progress of the PE exercise. The Joint Subcommittee also met with deputations to garner their views on the WKCD project. During the 2009-2010 session, the Joint Subcommittee held four meetings to follow up with WKCDA on the appointment of senior management of WKCDA, the impact of the construction of the West Kowloon Terminus of the Hong Kong Section of the Guangzhou-Shenzhen-Hong Kong Express Rail Link ("XRL") on the WKCD development, the outcome of the Stage One PE Exercise, and the development of cultural software to complement the WKCD project. The Joint Subcommittee also received briefings from the three Conceptual Plan Consultants on their respective Conceptual Plan options for the development of WKCD, and met with the newly appointed Chief Executive Officer of WKCDA to better understand his vision on the WKCD development. Major issues studied by the Joint Subcommittee in relation to the implementation of WKCD are as follows-

- (a) Development of WKCD
  - (i) preparation of the Development Plan for WKCD, including the planning approach for WKCD, selection of the three Conceptual Plan Consultants and the Project Consultant, and public participation in the process;
  - (ii) planning of M+, including the theme of M+, appointment of curatorial professional, building up of collection items, promotion of public knowledge on M+, and implementation of the interim M+;
  - (iii) planning of the Core Arts and Cultural Facilities ("CACF"), including the design competitions for and development schedule of CACF, and realignment of the existing cultural facilities with those in WKCD;
  - (iv) construction of XRL, including the interface between the



WKCD and XRL projects, traffic improvement works in the West Kowloon district, infrastructural works for supporting the arts and cultural facilities in WKCD; and noise and vibration mitigation measures for the facilities in WKCD; and

- (v) WKCD's connectivity with adjoining districts and the community and use of public open space and facilities in WKCD.

(b) The work of WKCDA

- (i) appointment of members to the WKCDA Board and six committees of WKCDA;
- (ii) recruitment of CEO and other senior executives of WKCDA;
- (iii) public engagement for WKCD, including the establishment of the Consultation Panel, the function and role of the Consultation Panel, arrangements for and application of findings of the Stage One PE Exercise, ;
- (iv) accessibility of meeting papers and minutes of meetings of WKCDA to the public; and
- (v) use of the upfront endowment of \$21.6 billion for WKCDA.

(c) WKCD's interface with arts and cultural development

- (i) measures to promote the development of cultural software to complement the WKCD project, including funding support for arts development, nurturing of young artists, building of audience, promotion of arts education in schools, training and development of arts administrators/stage management professionals;
- (ii) resource allocation for software development and timeframe for WKCDA to implement related programmes and activities; and
- (iii) delineation of responsibility between the Home Affairs Bureau and WKCDA in the development of the arts and culture.

### **Need for continuation of work in the 2010-2011 session**

5. Most of the issues highlighted in the preceding paragraph, such as the masterplanning of WKCD and its CACF, interface between WKCD and XRL, institutional and procedural arrangements of WKCDA, and development of cultural software, are ongoing issues the development of which will have a significant bearing on the implementation of the WKCD project. There is a need for the Joint Subcommittee to continue to monitor these issues.

6. In addition, the development of WKCD has reached/will soon reach some important milestones: WKCDA has unveiled the three Conceptual Plan Options and rolled out a three-month public consultation (viz. Stage Two PE Exercise) to gauge the views of the public and stakeholders on the Option which is most acceptable to the public and can serve as the foundation of the Development Plan for WKCD in August 2010; and the Project Consultant will develop the detailed Development Plan on the basis of the selected CP Option for public consultation in Stage Three PE Exercise tentatively scheduled for 2011. The Joint Subcommittee will also need to continue to monitor the development of these issues, which are within the purview of its terms of reference.

7. Having regard to the considerations stated in paragraphs 4 and 5, the Panel on Home Affairs and Panel on Development agreed at their meetings on 14 October 2010 that the Joint Subcommittee should continue its work in the 2010-2011 session.

### **Advice sought**

8. Pursuant to Rule 26(c) of the House Rules, Members are invited to note the progress of work of the Joint Subcommittee and endorse the proposal for the Joint Subcommittee to continue its work in the 2010-2011 session.

Council Business Division 2  
Legislative Council Secretariat  
20 October 2010

**Panel on Home Affairs and Panel on Development**

**Joint Subcommittee to Monitor the Implementation of the  
West Kowloon Cultural District Project**

**Membership list**

<b>Chairman</b>	Hon IP Kwok-him, GBS, JP
<b>Deputy Chairman</b>	Hon LEE Wing-tat
<b>Members</b>	Ir Dr Hon Raymond HO Chung-tai, SBS, S.B.St.J., JP Hon James TO Kun-sun Hon CHAN Kam-lam, SBS, JP Hon Mrs Sophie LEUNG LAU Yau-fun, GBS, JP Hon WONG Yung-kan, SBS, JP Hon Emily LAU Wai-hing, JP Hon Timothy FOK Tsun-ting, GBS, JP Hon Abraham SHEK Lai-him, SBS, JP Hon CHEUNG Hok-ming, GBS, JP Prof Hon Patrick LAU Sau-shing, SBS, JP Hon Cyd HO Sau-lan Hon Starry LEE Wai-king, JP Hon CHAN Hak-kan Dr Hon Priscilla LEUNG Mei-fun Hon CHEUNG Kwok-che Hon WONG Sing-chi Hon Paul TSE Wai-chun Hon Alan LEONG Kah-kit, SC Hon Tanya CHAN Hon WONG Yuk-man  (Total : 22 members)
<b>Clerk</b>	Ms Betty FONG
<b>Legal Adviser</b>	Miss Kitty CHENG
<b>Date</b>	21 October 2010

立法會  
*Legislative Council*

LC Paper No. CB(2)79/10-11

Ref : CB2/HS/2/08

**Paper for the House Committee on 22 October 2010**

**Continuation of work of the Subcommittee to Study Issues Relating to  
Mainland-HKSAR Families in the 2010-2011 session**

**Purpose**

This paper reports on the progress of work of the Subcommittee to Study Issues Relating to Mainland-HKSAR Families ("the Subcommittee") and invites members to endorse the proposal for the Subcommittee to continue its work in the 2010-2011 session.

**Background**

2. The Subcommittee was appointed by the House Committee on 2 January 2009 and was tasked to study the population policy and measures relating to Mainland-Hong Kong families, and make recommendations in this regard. The membership list of the Subcommittee is in the **Annex**. According to its terms of reference, the Subcommittee will focus its work on the following areas –

- (a) the existing population policy, in particular immigration policy, in respect of Mainlanders whose family members are Hong Kong residents, and the impact of this policy on Mainland-Hong Kong families;
- (b) the rights of Mainland-Hong Kong families, in particular the immigration and administrative measures for Mainland single parents of Hong Kong-born children to enter and reside in Hong Kong and cross-boundary students of these families to have schooling in Hong Kong;
- (c) the procedures and waiting time in the vetting and approving of applications for One Way Permits ("OWPs") and the administrative arrangements for interim stays in Hong Kong; and

- (d) the rights for the use of public services and facilities, such as public health services, in particular obstetric services, by Mainlanders whose spouses are Hong Kong residents, and the level of charges for using such services and facilities.

### **Progress of work of the Subcommittee**

3. Under the chairmanship of Hon LEE Cheuk-yan, the Subcommittee has since February 2009 held 13 meetings with the Administration and received views of deputations at eight of these meetings. The Subcommittee has studied the following major issues –

- (a) population policy relating to Mainland-Hong Kong families;
- (b) immigration policies and measures which have impact on families with members from the Mainland;
- (c) arrangements for the use of obstetric services by Mainland women whose spouses are Hong Kong residents;
- (d) the immigration and administrative measures for cross-boundary students to have schooling in Hong Kong; and
- (e) public housing arrangements for households with members holding Two Way Permits ("TWPs").

### **Immigration arrangements**

4. In respect of paragraph 3(b) above, the Subcommittee has drawn up a number of recommendations to refine the OWP and TWP Schemes to facilitate the reunion of Mainland residents with their families in Hong Kong for the Administration's consideration and follow-up. The Administration provided its preliminary response to the Subcommittee on 5 November 2009. The Subcommittee was advised that the Administration had conveyed the suggestions of the Subcommittee to the Mainland authorities. As the Administration's exchanges with the Mainland authorities were on-going, it was not in a position to provide a conclusive response to the suggestions of the Subcommittee.

5. The Subcommittee was further advised that the Central People's Government had announced a new policy initiative to cater for Mainland adult children of Hong Kong residents to settle in Hong Kong. However, the Administration was actively discussing with the Mainland authorities on the arrangements and the arrangements had yet to be finalised and announced. It would revert to the Subcommittee and make public announcement on the details as soon as there were more concrete developments.

6. At the meetings on 26 April and 29 June 2010, the Subcommittee was updated on the progress of discussion with the Mainland authorities on the arrangements pertinent to Mainland "overage children" of Hong Kong residents applying for OWP for settlement in Hong Kong. Noting that the Administration was still discussing with the relevant Mainland authorities the implementation arrangements, members took a strong view that the Administration should actively follow up the matter with the Mainland authorities. Pursuant to the meeting on 29 June 2010, the Chairman wrote to the Secretary for Security ("S for S") and conveyed the Subcommittee's views on the matter. In his reply, S for S assured members that the Government would spare no effort in continuing with the on-going discussions with a view to finalising the arrangements and promulgating such arrangements as soon as possible.

#### Obstetric services package charges

7. The Subcommittee examined the arrangements for the use of obstetric services by Mainland women whose spouses are Hong Kong residents at four meetings. Members generally held the view that children born to Mainland mothers and fathered by Hong Kong residents were in effect members of Hong Kong families. These Mainland women should therefore be entitled to use subsidised obstetric services.

8. At the meeting on 28 July 2009, the Subcommittee passed a motion urging the Administration to assess the impact of the policy on obstetric services if Mainland spouses of Hong Kong residents are given equal treatment with local women in using such services, and submit an assessment report to the Subcommittee to facilitate its follow-up discussion. The Administration provided members with further updates on the obstetric service charge arrangements for non-eligible persons in public hospitals at the Subcommittee meetings on 19 January and 13 July 2010.

9. The Administration advised that taking into account the policy objectives of the obstetric service charge arrangements; the read-across implications on other heavily subsidised public services; and the need to ensure rational use of the finite public resources, the Administration considered, on balance, that the existing obstetric service charge arrangements for non-eligible persons remained appropriate. Members were also advised that the Hospital Authority had reviewed the refund arrangement, particularly the amount of refund for cases involving miscarriage, termination of pregnancy or still birth. The revised refund arrangement came into effect upon the gazettal of the notice in mid-July 2010.

#### Public housing arrangements for households with members holding TWPs

10. Some members were concerned about the imminent housings needs of those households which consisted only of Hong Kong-born children with single

mothers being TWP holders and who were non-public housing residents. As agreed at the meeting on 13 July 2010, the Chairman wrote to the Chairman of the Housing Authority and requested the latter to consider allowing the aforesaid households to apply for public rental housing. The Administration has provided its reply in September 2010, reiterating the current policy and arrangements on public rental housing.

#### Review of population policy

11. In the course of deliberations, the Subcommittee has time and again requested the Administration to review the existing population policy and the impact of this policy on local families with members from the Mainland having regard to the increasing number of cross-boundary marriages. Members have also expressed the view that the Chief Secretary for Administration and relevant Principal Officials should attend meetings of the Subcommittee to discuss issues relating to family reunion.

#### **Need for continuation of work in the 2010-2011 session**

12. It is envisaged that the Subcommittee will need to hold further meetings to pursue the above issues with the Administration. As such, the Subcommittee has agreed that it should continue its work according to its existing terms of reference in the 2010-2011 session.

13. Approval was previously given by the House Committee at its meeting on 15 January 2010 for the Subcommittee to continue its work in the 2009-2010 session in accordance with House Rule 26(c).

#### **Advice sought**

14. Pursuant to Rule 26(c) of the House Rules, members are invited to note the progress of work of the Subcommittee and endorse the proposal for the Subcommittee to continue work in the 2010-2011 session.

Council Business Division 2  
Legislative Council Secretariat  
21 October 2010

**Subcommittee to Study Issues Relating to Mainland-HKSAR Families**

**Membership List**

<b>Chairman</b>	Hon LEE Cheuk-yan
<b>Deputy Chairman</b>	Hon LEUNG Yiu-chung
<b>Members</b>	Hon Albert HO Chun-yan Hon Miriam LAU Kin-ye, GBS, JP Hon TAM Yiu-chung, GBS, JP Hon Abraham SHEK Lai-him, SBS, JP Hon Audrey EU Yuet-mee, SC, JP Hon WONG Kwok-hing, MH Hon Ronny TONG Ka-wah, SC Prof Hon Patrick LAU Sau-shing, SBS, JP Hon Cyd HO Sau-lan Dr Hon LAM Tai-fai, BBS, JP (from 16 January 2009 to 23 October 2009) Hon CHAN Hak-kan Dr Hon Priscilla LEUNG Mei-fun (up to 20 October 2009) Hon CHEUNG Kwok-che Hon WONG Sing-chi Hon Mrs Regina IP LAU Suk-ye, GBS, JP (up to 3 November 2009) Hon WONG Yuk-man (up to 28 January 2010) (rejoined on 26 May 2010)
	(Total : 15 Members)
<b>Clerk</b>	Miss Betty MA
<b>Legal adviser</b>	Mr YICK Wing-kin
<b>Date</b>	26 May 2010



**立法會**  
**Legislative Council**

LC Paper No. CB(1)160/10-11

Ref : CB1/PL/DEV

**Paper for the House Committee meeting on 22 October 2010**

**Continuation of work of the  
Joint Subcommittee on Amendments to Land Titles Ordinance  
under the Panel on Development and  
Panel on Administration of Justice and Legal Services**

**Purpose**

This paper invites members to note the latest progress of work of the Joint Subcommittee on Amendments to Land Titles Ordinance (the Joint Subcommittee) and the need for the Joint Subcommittee to continue its work in the 2010-2011 legislative session.

**Background**

2. The Joint Subcommittee was appointed by the Panel on Development and the Panel on Administration of Justice and Legal Services (the Panels) in January 2009 to monitor the Administration's work on the preparation of amendments to the Land Titles Ordinance (Cap. 585)<sup>1</sup> (LTO) in a focused manner and provide input in the bill drafting process. The membership list of the Joint Subcommittee is in the **Annex**. In making the decision to appoint the Joint Subcommittee, the Panels had given regard to the then advice of the Administration that the following four substantial matters needed to be finalized before a Land Titles (Amendment) Bill could be brought to the Legislative Council for consideration --

- (a) the relationship between the LTO and other legislation;

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<sup>1</sup> The LTO was enacted in July 2004.

- (b) arrangements for updating land boundaries;
- (c) modifications to the conversion mechanism<sup>2</sup> in the LTO; and
- (d) modifications to the provisions on rectification and indemnity<sup>3</sup> in the LTO.

### **Work of the Joint Subcommittee**

3. Under the chairmanship of Dr Hon Margaret NG, the Joint Subcommittee has held eight meetings, five in the 2008-2009 and three in the 2009-2010 legislative sessions. The Joint Subcommittee has studied the following major issues -

- (a) the conversion mechanism provided for under the LTO;
- (b) the mandatory rectification rule<sup>4</sup> stipulated in the LTO; and
- (c) determination of land boundaries.

At its meetings on 19 March 2009 and 29 April 2010, the Joint Subcommittee received views of deputations from interested parties on the above and other issues related to the LTO.

### Conversion mechanism

4. At the meetings held in the 2008-2009 legislation session, the Joint Subcommittee deliberated at length the risks and problems identified by the Administration in relation to the "Daylight Conversion" framework (i.e. automatic conversion 12 years after commencement of the LTO) pursuant to the post-enactment review of the LTO. The Joint Subcommittee noted that after assessment of the options available, the Administration recommended to uphold the spirit of automatic conversion at the end of 12 years and manage those identified risks by proceeding to amend the LTO to modify the "Daylight Conversion" mechanism. To deal with known cases of indeterminate ownership, the Administration proposed to empower the Land Registrar to withhold certain land

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<sup>2</sup> "Conversion mechanism" refers to the method that will be used to bring existing land and property to which the Land Registration Ordinance (Cap. 128) applies over to the land title register under the LTO.

<sup>3</sup> "Rectification" refers to how the land title register is to be put right if found to be in error, while "indemnity" refers to how an innocent party who has relied on the land title register and suffers loss due to an error or fraud is to be compensated.

<sup>4</sup> Under the LTO enacted in 2004, any innocent owner removed from the register by fraud will be restored as owner provided that an action for recovery is taken within the time allowed by the Limitation Ordinance (Cap. 347), irrespective of any subsequent transactions or developments affecting the land.

registered under the Land Registration Ordinance (Cap. 128) (LRO) from conversion to registered land under the LTO, by registering a "Land Registrar's caution against conversion" (LRCAC) against the concerned properties. Moreover, the Administration advised that it would introduce appropriate financial measures to cope with liabilities arising from the automatic conversion mechanism, and to back up the Land Registry Trading Fund (LRTF) to ensure that charges to users of the services of the Land Registry would be maintained in an orderly manner.

5. The Joint Subcommittee discussed the Administration's proposal on the LRCAC mechanism on 7 December 2009 and 29 April 2010. The issues discussed included the measures to deal with problematic cases before invoking LRCAC, criteria for registering LRCAC, and review mechanism. As regards financial measures to cope with liabilities that may arise from the automatic conversion mechanism, the Administration indicated that any proven claims would be met by the LRTF out of its own resources including uncommitted retained earnings. Where necessary, the Administration was prepared to seek the approval of the Finance Committee of the Legislative Council for a stand-by loan facility if the resources available to the LRTF were insufficient to cover proven claims and to finance the smooth operation of the Land Registry.

#### Rectification and indemnity arrangements

6. Under the mandatory rectification (MR) rule of the LTO, if an innocent former owner lost his title by or as a result of fraud, he will be restored as owner. The innocent purchaser will be protected, in accordance with the provisions in the LTO, through payment of an indemnity out of the self-financing Land Titles Indemnity Fund up to a cap of \$30 million. Following its post-enactment review of the LTO, the Administration proposed, in a public consultation conducted in early 2009, the following three exceptions to the MR rule –

- (a) when the land affected had been surrendered or resumed prior to discovery of the fraud;
- (b) when the land had passed into multiple new ownership prior to discovery of the fraud; and
- (c) when the current owner was a bona fide purchaser who had not dealt with the fraudster.

7. The Administration reported to the Joint Subcommittee on 16 June 2009 that for the first two proposed exceptions, stakeholders generally appreciated the complexity of the related issues, and yet felt strongly that the indemnity cap should be removed to protect an innocent former owner failing to recover the property. As

for the third proposed exception, the overwhelming view was that the MR rule should be maintained, regardless of the distance of the current registered owner from the fraudulent transaction. The Joint Subcommittee noted that at that time, the Law Society of Hong Kong (the Law Society) had not yet given its views on the issue.

8. At the Joint Subcommittee meeting on 29 April 2010 attended by deputations, the Joint Subcommittee noted the Law Society's strong objection to the MR rule. The Law Society considered that a title registration system with the MR rule would not work at all, and instead advocated "indefeasibility of title" as the appropriate arrangement. Members appreciated the complexity of the issues involved and requested the Administration to duly consider the views from stakeholders and come up with a workable system for the LTO after balancing the interests of the concerned sectors and those of the general public.

9. The Administration reported on 28 June 2010 that the Administration had held an in-depth discussion with stakeholders on the concerns of the Law Society regarding the rectification and indemnity arrangements, and the stakeholders expressed divergent views towards the arrangements. To take the matter forward, the Administration had requested the Law Society to provide further information on the extra steps in conveyancing procedures that would be necessary if the MR rule was adopted. Once the information was received, the Administration would meet with the stakeholders again to discuss the matter. Meanwhile, the Administration was also exploring other possible options for discussion with stakeholders.

#### Determination of land boundaries

10. The Joint Subcommittee deliberated at its meeting on 7 October 2009 the Administration's proposal to provide an avenue for land owners to apply to the Director of Lands for determination of the boundaries of their lots and registration of the resultant plans in the Land Registry. The Administration's intention is to repeal Section 94 of the LTO and introduce into the Land Survey Ordinance (Cap. 473) (LSO) the relevant provisions modeled on the current provisions in Section 94 of the LTO, to be followed up by way of consequential amendments to be made under the forthcoming Land Titles (Amendment) Bill.

11. Members raised various concerns, including the legal consequences if a new plan as determined by the Director of Lands is different from the old plan kept in the Land Registry or shown on the Government lease, and the legal implications of a "non-consent new plan"<sup>5</sup> on related conveyancing transactions. Members

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<sup>5</sup> A "non-consent new plan" refers to a new plan where the relevant owners do not give consent for it to be registered but which will be kept by the Director for public inspection on related conveyancing transactions.

requested the Administration to provide a policy paper on the subject to set out how the Director would process applications for determination of land boundaries in practice, issues that might be encountered and suggested solutions.

12. At the meeting on 7 December 2009, the Administration reported on the initial views of the relevant government departments and the Administration's legal advisors on the issues raised by the Joint Subcommittee. The Administration indicated that as the issues had complex legal and policy implications, more time was needed to examine them in detail and carefully.

13. At the meeting on 29 April 2010, the Joint Subcommittee noted the views of the Hong Kong Institute of Surveyors on the matter. The Institute supported the Administration's proposal and further advocated the establishment of a land boundary records system, to be maintained by the Land Survey Authority and made available to the public. In June 2010, the Joint Subcommittee received a submission from the Association of Government Local Land Surveyors. The Association expressed support for the Administration's proposal, but highlighted its concern about the lack of a solid timetable for the proposed legislative work. The Association emphasized that for the new title registration system to operate smoothly, the LTO should never be implemented without the corresponding amendments for determination of land boundaries. The Administration reported at the meeting on 28 June 2010 that it was following up on the Joint Subcommittee's concerns expressed in previous discussions, and would exchange views with relevant stakeholders and keep the Joint Subcommittee abreast of the progress in the due course.

## **Need for continuation of work**

### Outstanding issues

14. Given its monitoring role, the Joint Subcommittee's work would tie in with the progress of the Administration's work on the preparation of amendments to the LTO, which is conducted with the objective of ensuring efficient operation of the new land title registration system upon commencement of the Ordinance. Taking into account the scope and complexity of the current outstanding issues, it is anticipated that the Administration will unlikely be able to introduce the Land Titles (Amendment) Bill into the Legislative Council within 2010 as was previously planned by the Administration. The following outstanding matters would need to be followed up by the Joint Subcommittee prior to the introduction of the amendment bill -

- (a) the rectification and indemnity arrangements;

- (b) determination of land boundaries;
- (c) relationship between the LTO and other Ordinances; and
- (d) registration of managers of T'so and T'ong.

The Joint Subcommittee may also need to follow up other policy issues that are required to be addressed before implementation of the LTO.

### **Endorsement of the Panels**

15. The Panels have endorsed the Joint Subcommittee's recommendation to continue its work in the 2010-2011 legislative session.

### **Advice sought**

16. Pursuant to Rule 26(c) of the House Rules, members are invited to note the latest progress of work of the Joint Subcommittee and endorse the proposal for the Joint Subcommittee to continue its work in the 2010-11 legislative session.

Council Business Division 1  
Legislative Council Secretariat  
21 October 2010

**Panel on Development and  
Panel on Administration of Justice and Legal Services**

**Joint Subcommittee on Amendments to Land Titles Ordinance**

**Membership list**

**Chairman** Dr Hon Margaret NG

**Members** Hon Albert HO Chun-yan  
Hon Miriam LAU Kin-ye, GBS, JP  
Hon Timothy FOK Tsun-ting, GBS, JP  
Hon Abraham SHEK Lai-him, SBS, JP  
Hon Audrey EU Yuet-mee, SC, JP  
Hon CHEUNG Hok-ming, GBS, JP  
Prof Hon Patrick LAU Sau-shing, SBS, JP  
Hon Paul TSE Wai-chun  
Hon Alan LEONG Kah-kit, SC  
Hon LEUNG Kwok-hung

(Total: 11 members)

**Clerk** Ms Anita SIT

**Legal Adviser** Mr KAU Kin-wah

**Date** 21 October 2010

立法會  
*Legislative Council*

LC Paper No. CB(1) 128/10-11

Ref : CB1/PS/5/08

**Paper for the House Committee meeting on 22 October 2010**

**Panel on Environmental Affairs**

**Reactivation and commencement of work of the  
Subcommittee on Combating Fly-tipping**

**Purpose**

This paper reports on the progress of work of the Subcommittee on Combating Fly-tipping (the Subcommittee) during the 2009-2010 session, and the need for continuation of its work in the 2010-2011 session.

**Background**

2. The problem of fly-tipping and illegal land filling has all along been a public concern, as evidenced by the increasing number of complaints against such activities on Government land (GL) and private land. Given the inadequacy of the existing regulatory regime in controlling such activities, many parts of the New Territories have become dumping grounds, causing unacceptable impacts on the surrounding.

3. To enable focused discussion on Government's efforts in tackling fly-tipping and land filling activities, the Panel on Environmental Affairs (the Panel) decided at its meeting on 30 March 2009 to set up a subcommittee to review the existing policies on enforcement against such activities and suggest improvement measures as and when necessary. The Subcommittee was dissolved upon submission of a report to the Panel in August 2009. In view of the prevalence of fly-tipping and illegal land filling activities, Members agreed at the meeting of the House Committee on 4 December 2009 to reactivate the Subcommittee. The terms of reference and membership of the Subcommittee are given in **Annexes I and II** respectively.



## **Progress of work of the Subcommittee**

4. In the 2009-2010 legislative session, the Subcommittee has studied a number of issues, including enhanced control measures against the depositing of construction and demolition (C&D) materials, legislative proposals, and illegal road openings intended for fly-tipping.

### Enhanced control measures against the depositing of C&D materials

5. The Subcommittee has noted that the Environmental Protection Department (EPD) and other departments concerned have jointly drawn up enhanced complaint handling procedures to speed up the response to cases involving active and on-going depositing activities of C&D materials, particularly those that would pose risks to environmentally sensitive areas. Apart from the development and maintenance of a database on information of those land filling cases which are under constant monitoring and actions by various departments, a list of fly-tipping black-spots has been compiled and departments concerned would carry out regular patrol and other actions as appropriate to deter illegal depositing activities at these sites. Three sets of comprehensive guides, in the form of leaflets, have also been developed respectively for rural landowners, construction waste transporters and developers/contractors/managers to provide useful information on the relevant statutory requirements, and the steps to guard against illegal land filling and fly-tipping activities. Closed-circuit television (CCTV) systems have also been installed at the two fly-tipping black-spots at Siu Lang Shui in Tuen Mun and Tai Po Road car park in January 2010 as pilot scheme for about one year to test out their effectiveness in collecting evidence on fly-tipping. Subject to the outcome of the trial scheme, the Administration would review the effectiveness and feasibility of extending the CCTV installations to other fly-tipping black-spots.

6. However, members are disappointed at the slow progress of the proposed extension of the trip-ticket system (TTS) to major private works projects to keep track of the movement and disposal of inert C&D materials. They have pointed out that TTS has not only proved to be effective in monitoring the flow of C&D materials but also helped prevent overloading of dump trucks. Given that the proposed extension has the full support of the Hong Kong Construction Association, and that the Construction Industry Council (CIC) has been given sufficient time to consider the adoption of TTS in private works projects, members have opined that a deadline might need to be set for the mandatory introduction of TTS to private works projects, starting with large-scale projects. Consideration should also be given to including in the Basic Conditions of the application for a billing account for disposal of construction waste the need for contractors to ensure that dump trucks leaving construction sites are weighed and recorded in the chits for cross checking at public fill reception facilities to avoid overloading and possible fly-tipping activities.

## Legislative proposals

### *Waste Disposal Ordinance (Cap. 354)*

7. The Subcommittee has noted that after reviewing its scope of legislative control, EPD has proposed to amend the Waste Disposal Ordinance (Cap. 354) (WDO) to enhance the effectiveness of enforcing section 16A of WDO against unauthorized depositing of abandoned C&D materials on private land. Under the proposal, a person who carries out unauthorized depositing activity on private land without owners' written consent will be held liable for prosecution. The proposal aims to prevent depositing activities that will cause environmental problem, and to safeguard the interest of private landowners by preventing the abuse of private land for depositing without their consent. The new notification mechanism under the proposal will also enable Government departments to be notified in advance of possible depositing of abandoned C&D materials on private land so that the related departments could remind parties concerned of the relevant statutory requirements, thus preventing the occurrence of illegal activities. Subject to any refinements in consultation with relevant bureaux and departments, the proposal will be submitted for further consideration by the Panel. It is expected that preparation for the legislative process will commence in the last quarter of 2010. Some members have pointed out the need to amend the definition of "waste" under WDO in parallel with the proposed amendment to section 16A of WDO. If not, some landowners might circumvent the new notification requirement by claiming that the C&D materials deposited on their land were for storage purpose.

### *Town Planning Ordinance (Cap. 131)*

8. In the last legislative session, the Administration was requested to review the feasibility of amending the Town Planning Ordinance (Cap. 131) (TPO) to empower the Planning Authority to take enforcement action against land filling activities undertaken within areas covered by Outline Zoning Plans (OZPs) but previously not covered by Development Permission Areas (DPA) Plans. The Subcommittee has noted the Administration's explanation that TPO is not considered the most appropriate tool to control land filling activities because overhauling the planning regime to forestall a particular form of illegal or unauthorized activities on the land would have far-reaching implications. Besides, it has been an on-going task of the Planning Department (PlanD) to prepare and review statutory plans. Apart from OZP reviews for the built-up areas, PlanD is in parallel preparing DPAs/OZPs for the rural areas currently not covered by statutory plans so as to step up statutory control and enforcement. PlanD plans to complete statutory plans for the Frontier Closed Area and 12 other locations in the rural New Territories in the coming two years covering some high-priority areas warranting statutory planning control i.e. areas of conservation value subject to development pressure, relatively susceptible to unauthorized uses etc. The preparation of statutory plans for the rest of the rural areas would be followed up progressively.

### Illegal road openings intended for fly-tipping

9. Apart from enforcement against illegal road openings intended for fly-tipping, members have opined that efforts, including erection of fences/bollards to demarcate the width of existing rural roads, should be made to prevent illegal widening of existing rural roads to enable entry of large dump trucks for land filling or fly-tipping activities. Consideration should also be given to putting in place an application mechanism for construction of village roads to take account of the need of residents on the one hand and hold the applicants responsible for any illegal use on the other.

### Others

10. The Subcommittee has been monitoring nine private land filling sites in the database that are under constant monitoring or actions by Government departments. Given that the relevant statutory notices issued for three cases have been complied with and one is no longer a land filling case, these have been deleted from the observation list.

11. To ascertain the latest situation of the Ho Sheung Heung case, the Subcommittee conducted a visit to the site on 19 January 2010. While expressing concern on the slow progress of the case, members have noted that the Buildings Department has requested the owners of the two unauthorized buildings to give a definite time frame within which the unauthorized buildings will be demolished.

### **Need for continuation of work of the Subcommittee in the 2010-2011 session**

12. Given that fly-tipping and illegal land filling activities are still rampant, the Panel decided at its meeting on 14 October 2010 that the Subcommittee should continue its work in the 2010-2011 session.

### **Advice sought**

13. Pursuant to Rule 26(c) of the House Rules, members are invited to note the progress of work of the Subcommittee, and endorse the proposal for the Subcommittee to continue its work in the 2010-2011 session.

**Panel on Environmental Affairs**

**Subcommittee on Combating Fly-tipping**

**Terms of Reference**

"To review the existing policies on enforcement against fly-tipping and suggest improvement measures as and when necessary."

**Panel on Environmental Affairs**  
**Subcommittee on Combating Fly-tipping**  
**Membership list**

**Chairman** Hon LEE Wing-tat

**Members** Hon Audrey EU Yuet-mee, SC, JP  
Hon CHEUNG Hok-ming, GBS, JP  
Hon KAM Nai-wai, MH  
Hon Tanya CHAN

(Total : 5 Members)

**Clerk** Miss Becky YU

**Legal Adviser** Miss Kitty CHENG

**Date** 21 October 2010

**Existing and anticipated number of Bills Committees and subcommittees  
(position as at 21 October 2010)**

<i>Estimated number of Bills Committees ("BCs") within the next three months</i> <i>(a)+(b) = (12 + 8), i.e. 20</i> <i>(The maximum number of BCs in operation is limited to 16; BCs formed exceeding this number will be put on a waiting list)</i>		<i>Estimated number of subcommittees ("SCs") on subsidiary legislation within the next three months</i> <i>(c)+(d) = (4 + 1), i.e. 5</i>		<i>Estimated number of SCs on policy issues in action within the next three months</i> <i>= 11</i>
<b>BCs</b> <i>( Maximum number in operation: 16 )</i>		<b>SCs on subsidiary legislation</b> <i>( Notional maximum number : 2 )</i>		<b>SCs on policy issues</b> <i>( Maximum number : 8 )</i>
<b>(a)</b> <b>BCs in action</b>	<b>(b)</b> <b>BCs expected to be formed in the next three months</b>	<b>(c)</b> <b>SC on subsidiary legislation in action</b>	<b>(d)</b> <b>Subsidiary legislation expected to be gazetted in the next three months and on which SCs are expected to be formed</b>	<b>(e)</b> <b>SCs on policy issues in action</b>
<b>Total : 12</b>	<b>8</b>	<b>Total : 4</b>	<b>1</b>	<b>Total : 11</b>
Please refer to List A of the Position Report on Bills Committees and subcommittees ("the Position Report") (LC Paper No. CB(2)85/10-11) for details of the BCs.	(i) Bills on the 2009-2010 Legislative Programme	1. SC on Genetically Modified Organisms (Documentation for Import and Export) Regulation 2. SC on Port Control (Public Cargo Working Area) Order 2010 3. SC on District Councils Ordinance (Amendment of Schedule 3) Order 2010 4. SC on Three Commencement Notices made under the Buildings (Amendment) Ordinance 2008, Building (Minor Works) Regulation and Building (Administration) (Amendment) Regulation 2009	1. Subsidiary legislation on the prescribed minimum hourly wage rate and the monetary cap on keeping records of hours worked	(i) Under House Committee
	Of the 5 bills in the Administration's 2009-2010 Legislative Programme which may be introduced into the Legislative Council in the current session, three BCs are expected to be formed in the next three months on the following Bills :			Please refer to List E of the Position Report for details of the SCs. <b>Sub-total : 3</b>
	1. Amendments to the Inland Revenue Ordinance (Cap.112) and Stamp Duty Ordinance (Cap.117) with a view to leveling the playing field for common types of Islamic bonds vis-à-vis conventional bonds in terms of tax liabilities 2. Prevention of Money Laundering and Terrorist Financing (Financial Institutions) Bill 3. Inland Revenue (Amendment) Bill <b>Sub-total : 3</b>			(ii) Under Panels Please refer to List F of the Position Report for details of the SCs. <b>Sub-total : 8</b>

	<p><b>(ii) Other Government Bills</b></p> <ol style="list-style-type: none"><li>1. Legislation Publication Bill</li><li>2. Chief Executive Election (Amendment) Bill and Legislative Council Election (Amendment) Bill</li><li>3. Companies Bill</li></ol> <p style="text-align: right;"><b>Sub-total : 3</b></p> <p><b>(iii) Members' Bills</b></p> <ol style="list-style-type: none"><li>1. The University of Hong Kong (Amendment) Bill 2010</li><li>2. The Hong Kong Polytechnic University (Amendment) Bill 2010</li></ol> <p style="text-align: right;"><b>Sub-total : 2</b></p>			
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